

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.
FLOR DE MARIA CACHO-BONILLA,

Defendant.

CRIMINAL NO. 97-145 (DRD)

**UNITED STATES' MOTION REQUESTING DISMISSAL
OF COUNT THREE OF THE INDICTMENT**

TO THE HONORABLE COURT:

COMES NOW, the United States of America, by and through its undersigned attorney and respectfully states and prays as follows:

1. On July 16, 1997, a Federal Grand Jury for the District of Puerto Rico returned a five-count indictment against defendants Flor de María Cacho-Bonilla and Waldemar Pérez-Quintana. Cacho-Bonilla and Pérez-Quintana were charged with embezzling and misapplying, for their own personal benefit, monies of the United States which came into their possession in the execution of their duties as Executive and Associate Directors of "Acción Social de Puerto Rico, Inc." (ASPRI)¹.

2. On August 18, 2000, a verdict of guilty was returned against Flor de María Cacho-Bonilla and Waldemar Pérez-Quintana. Both defendants were convicted of conspiracy to commit theft from a program receiving federal funds, 18 U.S.C. § 371 (Count One); theft from a program receiving federal funds, 18 U.S.C. §§ 666 (a)(1)(A) and 2 (Count Two), and mail fraud, 18 U.S.C. § 1341 (Count Four). The jury also convicted Cacho-Bonilla of making a false statement to secure a bank loan, 18 U.S.C. § 1014 (Count Three).

¹ASPRI was a private, non-profit corporation, created under the laws of Puerto Rico to provide assistance and services to underprivileged children, elderly, and homeless persons. .

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3. On March 1, 2001, sentence hearing for Flor de María Cacho-Bonilla was called. A term of imprisonment for seventy (70) months was imposed as to Counts One, Two, Three, and Four². (Dkt. 305). A Notice of Appeal was filed by Flor de María Cacho-Bonilla on March 7, 2002. (Dkt. 307).

4. On appeal, defendant Cacho-Bonilla challenged the sufficiency of the evidence introduced by the United States to convict her of willfully making a false statement to the Royal Bank of Puerto Rico in order to procure a bank loan for the Center for Education and Community Services, Inc. (Center)³. The conviction of Cacho-Bonilla on count three was vacated by the First Circuit Court of Appeals holding that it "would not consider whether conviction for making false statement to secure a bank loan could be sustained based upon representation in straw organization's bank loan application that it could legally use interest earned by program funds." See United States v. Cacho-Bonilla, 404 F. 3d 84 (1st Cir. 2005).

5. Consistent with the Court of Appeals's decision, the United States requests this Honorable Court dismiss Count Three of the Indictment as to defendant Flor de María Cacho-Bonilla, and correction of the sentence for the same.

WHEREFORE, it is respectfully requested that this Honorable Court take notice of the United States request for dismissal of Count Three of the indictment and correction of the sentence as it pertains to defendant Flor de María Cacho-Bonilla.

²Count Five (5) was dismissed. See docket # 305.

³A non-profit charitable organization created at the request and under the direction of defendants Cacho-Bonilla and Pérez-Quintana.

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RESPECTFULLY SUBMITTED.

In Hato Rey, Puerto Rico, this 25th day of May, 2005.

H.S. GARCIA
United States Attorney

s/ Guillermo Gil
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the counsel of record.

s/ Guillermo Gil
Guillermo Gil